

Proceedings of the Arizona Game and Fish  
Commission License Revocation and Civil  
Assessment Hearings  
Friday, May 20, 2005 – 2:00 p.m.  
Hassayampa Inn  
122 E. Gurley Street  
Prescott, Arizona 86301

PRESENT: (Commission)

(Director's Staff)

Chairman W. Hays Gilstrap  
Commissioner Joe Melton  
Commissioner Michael M. Golightly  
Commissioner William H. McLean

Director Duane L. Shroufe  
Deputy Director Steve K. Ferrell  
Assistant Attorney General Jim Odenkirk  
Assistant Attorney General Shelley Cutts

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments  
for the Illegal Taking and/or Possession of Wildlife

**Presenter:** Ron Day, Law Enforcement Branch Chief

The Department would like the record to show that each of these cases have been reviewed and it has been determined that all cases meet the criteria established in A.R.S. §15-714, §17-238, §17-314, §17-340, §17-362 and/or §17-363 for Commission action. The record should reflect that the Commission and the respondents have been provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. All of these exhibits may be considered by the Commission in order to make a final determination. Each individual has been legally noticed for today's hearing.

The Commission will consider and take action on the license revocations and/or civil assessments for the individuals listed below:

<u>Name</u>	<u>Conviction</u>
Murray, Sr., David L.	Count A: Possess unlawfully taken wildlife (elk). Count B: Exceed bag limit on elk (take 3 elk).
Shirley, Raymond N.	Count A: Possess unlawfully taken wildlife (elk). Count B: Attach tag to an elk that one did not kill.
Childers, Charles E.	Count B: Guide – hold lion at bay.
Smart, Misty D.	Count B: Take wildlife without valid license/permit (mountain lion). Count C: Take wildlife by unlawful method.
Smart, Joshua D.	Count A: Possess unlawfully taken wildlife (mountain lion). Count B: Transport unlawfully taken wildlife (mountain lion). Count C: Obtain lion tag by fraud.
Ebbert, James H.	Count C: Amended charge of hunt without a valid license.
Warner, Russell B.	Count C: Amended charge of hunt without a valid license.
Haskins, Robert W.	Count C: Amended charge of hunt without a valid license.

Shumway, Jason J.  
Stubblefield, Wilma J.

Count A: Take wildlife without permit (antelope)  
Count A: Allow another to use big game tag (deer).

Roll call was taken and the following were present: Charles Childers, Russell Warner.

**Motion:** Golightly moved and McLean seconded THAT THE COMMISSION TAKE JURISDICTION IN THESE CASES.

**Vote:** Unanimous

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The following two cases, Murray and Shirley, are related. A third individual in this case was not cited.

David L. Murray Sr.

Murray was found guilty by the Pinetop/Lakeside Justice Court for: Count A: Possess Unlawfully Taken Wildlife (elk); and Count B: Exceed Bag Limit (take 3 elk) and sentenced Count A: Sixteen (16) hours of community service and Count B: Fined \$750.00.

Murray was not present.

Mr. Day read to the Commission a letter submitted to the Department by Raymond Shirley (the following related case). In the letter, Shirley states that his hunting associate, David Murray Sr., killed the elk and that Shirley only became involved in an effort to do the right thing and not let the meat be wasted. Shirley also questioned the actions of Officer Wagner.

Officer Wagner was present and addressed the Commission. The opportunity was given to all three individuals independently as to what occurred in the field and all three of the parties initially stated that they had harvested two elk and that the two people who's tags were on the elk had each harvested their own elk independently. As each individual was interviewed separately, then they admitted what actually occurred, which was that Murray had killed two elk and wounded a third.

Commissioner Golightly asked if Officer Wagner believed this was a party hunt initially all along, to which Officer Wagner stated yes, based on radio conversation after the elk went down. It appeared that they had discussed what they would do in such a situation. The third individual assisted in field dressing the elk, but because he made the decision not to tag the elk and because he spent about two hours searching for the third elk, which was wounded, he was not cited.

**Motion:** McLean moved and Melton seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DAVID L. MURRAY TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA ARE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT,

BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST DAVID L. MURRAY SR. TO COLLECT THE AMOUNT OF \$7,013.61 FOR THE LOSS OF THREE (3) ANTERLESS ELK; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

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Raymond N. Shirley

Shirley was found guilty by the Pinetop/Lakeside Justice Court for: Count A: Possess Unlawfully Taken Wildlife (elk); and Count B: Attach Tag To An Elk That One Did Not Kill; and sentenced Count A: Eight (8) hours of community service and Count B: Fined \$500.00.

Shirley was not present.

**Motion:** McLean moved and Melton seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF RAYMOND N. SHIRLEY TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA ARE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

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This case is related to the following two cases, Misty Smart and Joshua Smart.

Charles E. Childers

Childers was found guilty by the Snowflake Justice Court for: Count B: Guide – Hold lion at bay; and sentenced Count B: Fined \$529.00.

Childers was present and addressed the Commission. He stated that he pled guilty to holding the lion at bay, but that he was not looking for a client, he was working for Joshua Smart. Childers apologized to the Commission for his wrong actions.

Commissioner McLean confirmed with Mr. Childers if he was present when Misty Smart shot the lion with a 22 and asked if Mr. Childers was aware that shooting a lion with a 22 was illegal, to which Mr. Childers replied that he was aware.

Commissioner McLean confirmed with Mr. Day that if Mr. Childers' license is revoked, it will make him ineligible to hold a guide license and unable to use his hounds to assist another to take a lion.

**Motion:** McLean moved and Golightly seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF CHARLES E. CHILDERS TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA ARE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

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Misty D. Smart and Joshua D. Smart provided the Department with a written request for postponement due to a death in the family.

**Motion:** McLean moved and Golightly seconded THAT THE COMMISSION GRANT A POSTPONEMENT OF THE HEARINGS FOR MISTY D. SMART AND JOSHUA D. SMART UNTIL THE AUGUST 12, 2005 MEETING TO BE HELD IN FLAGSTAFF, ARIZONA.

**Vote:** Unanimous

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The following three cases, Warner, Ebbert and Haskins, are related.

Russell B. Warner

Warner was found guilty by the Maricopa County Superior Court for: Count C: Obtain Resident Elk Permit By Fraud; and sentenced: Count C: Fined \$500.00 and one (1) year unsupervised probation.

Warner was present and addressed the Commission stating that he was told by the Attorney General's Office that he would lose his hunting license for five years and he based his plea agreement on that. He was not aware that it would include fishing and he was very upset that he would no longer be able to take his son fishing.

Commissioner McLean asked Mr. Warner if he was represented in Court by an attorney, to which Mr. Warner stated that he was.

Commissioner Golightly pointed out that there is a loss to the State associated with the fraud schemes related to this case. Additionally, if Mr. Warner doesn't agree with what happened in Court, he has the right to go back to Court. The Commission is not here to try the case again, but to do an administrative hearing.

**Motion:** Golightly moved and McLean seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF RUSSELL B. WARNER TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

Mr. Odenkirk clarified and stated for the record that the Attorney General's Office was not involved in the prosecution of this case. This case was prosecuted by the Maricopa County Attorney General's Office and Department attorneys were not consulted on this case during the criminal proceeding.

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James H. Ebbert

Ebbert was found guilty by the Maricopa County Superior Court for: Count C: Obtain Resident Elk Permit By Fraud; and sentenced: Count C: Fined \$500.00 and one (1) year unsupervised probation.

Ebbert was not present.

Commissioner Golightly asked Mr. Odenkirk if restitution to the State for lost licenses and permits could be added to the motion as a civil assessment.

Mr. Odenkirk replied that the civil assessment is for loss of wildlife. If there is a value in those licenses it should have been pursued as restitution in the criminal case.

Commissioner Melton commented that the prosecuting attorney was very liberal in the plea agreements. If not for the plea agreements, there would be some substantial crimes involved.

**Motion:** Melton moved and McLean seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JAMES H. EBBERT TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA ARE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

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Robert W. Haskin, Jr.

Haskin was found guilty by the Maricopa County Superior Court for: Count C: Obtain Resident Elk Permit By Fraud; and sentenced: Count C: Fined \$500.00 and one (1) year unsupervised probation.

Haskin was not present.

**Motion:** Melton moved and McLean seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF ROBERT W. HASKIN JR. TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA ARE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous  
Golightly was absent

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Jason J. Shumway

Shumway was found guilty by the Snowflake Justice Court for: Count A: Take Wildlife Without Permit (antelope); and sentenced Count A: Fined \$629.00.

Shumway was not present.

**Motion:** McLean moved and Golightly seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JASON J. SHUMWAY TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA ARE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST JASON J. SHUMWAY TO COLLECT THE AMOUNT OF \$1402.72 FOR THE LOSS OF ONE (1) ANTELOPE FAWN; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

**Vote:** Unanimous

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Wilma J. Stubblefield

Stubblefield was found guilty by the Fredonia Justice Court for: Count A: Allow Another To Use Big Game Tag (deer); and sentenced Count A: Fined \$750.00.

Stubblefield was not present due to a conflict in schedule. She contacted the Department to request a postponement.

**Motion:** McLean moved and Melton seconded THAT THE COMMISSION GRANT A POSTPONEMENT OF THE HEARING FOR WILMA J. STUBBLEFIELD UNTIL THE AUGUST 12, 2005 MEETING TO BE HELD IN FLAGSTAFF, ARIZONA.

**Vote:** Unanimous